

CALIFORNIA HOUSING FINANCE AGENCY

Multifamily Equal Opportunity Requirements

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EQUAL OPPORTUNITY POLICY

This supplement - Equal Opportunity Requirements - addresses the Agency's Affirmative Action Policy and sets forth the federal equal opportunity and non-discrimination rules and regulations applicable to CHFA financed developments.

Section 50955 of the California Health and Safety Code reads, in part, as follows:

"The Agency and every housing sponsor shall require . . . that contractors and subcontractors engaged in the construction of housing developments shall provide an equal opportunity for employment without discrimination as to race, marital status, sex, color, religion, national origin, or ancestry, and that such contractors and subcontractors shall submit and receive approval of an affirmative action program prior to the commencement of construction or rehabilitation."

"It shall be the policy of the agency and housing sponsors to encourage participation with respect to all projects by minority developers, builders, and entrepreneurs in all levels of construction, planning, financing, and management of housing developments" and that, "in areas of high minority concentration, the agency shall require significant participation of minorities . . ."

That CHFA " . . . require to the greatest extent feasible, employment and training opportunities to low income persons residing in the area of the housing project, and determine a method of securing small business participation."

The U.S. Department of Housing and Urban Development acting through the Federal Housing Administration ("HUD/FHA") requires that CHFA and its mortgagors certify compliance with ALL applicable fair housing and equal opportunity laws as provided in Federal regulations, State and Local fair housing and equal opportunity laws. A list of applicable Federal Laws and Regulations are detailed on Exhibit #1, Page 7 of this supplement.

A. GOALS

Following are participation goals for small Disadvantaged Business Enterprises, as provided under federal law, and Disabled Veteran Business Enterprises, as provided under state law, for construction related contracts:

10 % Disadvantaged Business Enterprises

3 % Disabled Veteran Business Enterprises

These goals are applicable to all projects financed in whole, or in part, with loan proceeds from the Agency and apply to both contractor and professional participation.

Where a project includes the participation of another public agency whose DBE/DVBE project goals are higher, CHFA will defer its goals in favor of the public agency's. However, where a public agency's project goals are lower than the CHFA goals outlined above, CHFA's goals will remain applicable to the project.

B. CONTRACTOR PARTICIPATION

The DBE and DVBE contractor participation goals relate to the total dollar volume of construction work to be performed and material to be supplied in connection with the construction of the Development. Excluded from this amount are professional consulting services, permit fees, insurance, bonding premiums and similar items. The contractor goals represent the percentage of construction costs to be subcontracted to disadvantaged business enterprises and disabled veteran business enterprises. Developers are required to report contractor participation on the DBE/DVBE Contractors Summary (see Exhibit #2)

C. PROFESSIONAL PARTICIPATION

The DBE/DVBE professional participation goals relate to development team members (e.g., architects, engineers, accountants, attorneys, consultants, etc.). The professional participation goals represent the percentage of the development's soft costs, excluding land cost, to be performed by disadvantaged business enterprises and disabled veteran business enterprises. This participation is reported on the DBE/DVBE Professional Services Summary (see Exhibit #3).

D. DEFINITIONS: DISADVANTAGED BUSINESS ENTERPRISE - WOMAN BUSINESS ENTERPRISE - DISABLED VETERAN BUSINESS ENTERPRISE

For purposes of complying with these requirements, the following definitions are to be utilized:

1. Disadvantaged business enterprise means a small business concern that is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business that has at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals and that has its management and daily business controlled by one or more such individuals.

a)"Socially disadvantaged individuals" means individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their qualities as individuals.

b)"Economically disadvantaged individuals" means socially disadvantaged individuals whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged. Individuals who represent that they are members of named groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent-Asian Americans) are to be considered socially and economically disadvantaged.

2. "Woman-owned small business concern" means a small business concern--

(a)Which is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(b)Whose management and daily business operations are controlled by one or more women.

3. Disabled veteran business enterprise means a legal business entity which is owned and controlled by one or more disabled veterans.

E. COUNTING BUSINESSES TOWARD THE GOALS

Businesses which meet the definition of more than one type of business enterprise can only be counted toward one goal, e.g., a disadvantaged business enterprise owned by a disabled veteran can be counted toward either the goal for disadvantaged business enterprises or the goal for disabled veteran business enterprises, but not both.

F. GOOD FAITH EFFORTS TO OBTAIN DBE AND DVBE PARTICIPATION

The Agency requires that developers undertake good faith efforts to obtain DBE and DVBE participation. Documentary evidence of good faith efforts may include, but is not limited to, the following:

- Whether the sponsor/contractor advertised in papers focusing on disadvantaged and disabled veteran business enterprises and trade papers concerning the subcontracting opportunities, for at least 20 days unless CHFA agrees, with cause, to a shorter time period;
- Whether the sponsor/contractor provided written notice to a reasonable number of specific DBEs and DVBEs that their interest in the contract was being solicited, in sufficient time to allow the DBEs and DVBEs to participate effectively;
- Whether the sponsor/contractor followed up initial solicitations of interest by contacting DBEs and DVBEs to determine with certainty whether the DBEs and DVBEs were interested;
- Whether the sponsor/contractor selected portions of the work to be performed by DBEs and DVBEs in order to increase the likelihood of meeting the DBE and DVBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE and DVBE participation);
- Whether the sponsor/contractor provided interested DBEs and DVBEs with adequate information about the plans, specifications and requirements of the contract;
- Whether the sponsor/contractor negotiated in good faith with interested DBEs and DVBEs, not rejecting DBEs and DVBEs as unqualified without sound reasons based on a thorough investigation of their capabilities.

- Whether the sponsor/contractor made efforts to assist interested DBEs and DVBES in obtaining bonding, lines of credit, or insurance required.
- Whether the sponsor/contractor effectively used the services of available disadvantaged business and disabled veteran community organizations, contractors' groups; local, state and federal disadvantaged business and disabled veteran business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs and DVBES.

G. TIMELY PAYMENT TO DBES AND DVBES

The developer shall insure that payment is made to DBEs and DVBES consistent with the payment schedule outlined in the subcontract agreement.

H. AFFIRMATIVE ACTION PLAN

Developers must submit, for CHFA's review and approval, an Affirmative Action Plan (AAP) detailing how they will comply with CHFA's Equal Opportunity Requirements. Developers may adopt CHFA's Equal Opportunity Policy as their Affirmative Action Plan by completing and returning the Equal Opportunity Policy Adoption Form (see Attachment #3) together with one copy of CHFA's Equal Opportunity Policy.

I. REPLACEMENT OF DBE AND DVBE CONTRACTORS

Should the replacement of an DBE or DVBE contractor(s) result in decreased DBE or DVBE participation, the sponsor is required to fully document the reasons for such replacement(s). Where CHFA determines that the replacement(s) was made in violation of the intent of this policy, the sanctions discussed in Section K may be imposed for each such violation.

J. CONSTRUCTION LENDERS

Construction lenders should be aware that developers must comply with CHFA's Equal Opportunity Requirements in order for loans to be purchasable. Prior to construction loan closing, developers are required to submit both a Contractors and a Professional Participation Summary. Additionally, developers may be required to submit documentation related to the Good Faith Efforts undertaken to meet the CHFA participation goals. Compliance with these requirements will be evidenced by a letter stating that the Equal Opportunity Requirements for processing to construction loan closing have been satisfied.

K. SANCTIONS

Non-compliance with these Requirements constitutes a violation of CHFA's Equal Opportunity Policy. Where good faith efforts have not been substantiated, failure to achieve the goals may result in the Developer and Contractor being sanctioned including, but not limited to, one or both of the following:

- Debarment from participating in CHFA-financed programs as well as notifying other public agencies and jurisdictions of such debarment.
- Assessment of a non-compliance penalty of one percent (1%) of the total development cost, to be deducted from the funds posted by the developer to cover bond costs. This penalty will be assessed at the time the mortgage loan is recorded.

AFFIRMATIVE ACTION PLAN APPROVAL PROCESS

A APPLICATION

The Developer's Loan Application must include an Affirmative Action Plan. CHFA will review the Plan for compliance with the Equal Opportunity Policy. Within 14 days of its receipt, CHFA will notify the developer of its approval or disapproval of the Plan. Upon approval, an Affirmative Action Plan Approval Letter will be issued.

B. PROCESSING TO CONSTRUCTION LOAN CLOSING

The developer shall submit Exhibit #2 (Contractors Summary) and #3 (Professional Participation Summary) to CHFA's Small Business Development Division no less than ten (10) days prior to construction loan closing. CHFA will review the proposed participation. Where the goals have not been met, the Developer should also submit evidence of the good faith efforts undertaken to comply with CHFA's Equal Opportunity Requirements. Prior to construction loan closing, developers must obtain a letter evidencing that the Equal Opportunity Requirements for processing to construction loan closing have been satisfied.

C. PROCESSING TO CHFA MORTGAGE LOAN CLOSING

CHFA will review the actual DBE and DVBE participation achieved during the course of construction. If the DBE and DVBE participation is acceptable, a compliance letter will be issued. In the event the Developer is found to be in non-compliance with CHFA's Equal Opportunity Policy, sanctions as outlined in Section K may be imposed.

List of Federal Laws, Regulations, etc. Governing CHFA's Compliance with FHA/AA Standards Listed in the Risk Sharing Agreement.

1. The Fair Housing Act (42 U.S.C. 3601-3619, as implemented by 24 CFR part 100.
2. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) as implemented by 24 CFR part 1.
3. The Age Discrimination Act of 1975 (42 U.S.C. 6101-6107), as implemented by 24 CFR part 146.
4. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794, as implemented by 24 CFR part 8.
5. Title II and III of Americans with Disabilities Act of 1990 (42 U.S.C. 12101-12213, as implemented by 28 CFR part 35.
6. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as implemented by 24 CFR part 135.
7. The Equal Credit Opportunity Act (15 U.S.C. 1691 1691f), as implemented by 12 CFR part 202.
8. Executive Order 11063, as amended by Executive Order 12259 (3 CFR 1958-1963 Comp., p. 652 and 3 CFR 1980 Comp., p. 307), as implemented by 24 CFR part 107.
9. Executive Order 11246 (3 CFR 1964-1965 Comp., p. 339), as implemented by 41 CFR part 60.
10. Other applicable Federal laws and all regulations issued pursuant to these authorities in lending or investing funds in real estate mortgages; and applicable State and local fair housing and equal opportunity laws.

EXHIBIT #2

CALIFORNIA HOUSING FINANCE AGENCY
DBE/DVBE Contractors Summary
 (Multifamily/Single Family Program)

NOTE: For Multifamily projects this information must be submitted and received at CHFA no later than 10 days prior to the start of construction on the Development

COMMITMENT/PROJECT # _____

DEVELOPMENT NAME _____

ADDRESS _____

COUNTY OF _____

CONSTRUCTION
LENDER'S NAME _____

ADDRESS _____

CONTACT PERSON _____

CONSTRUCTION AMOUNT _____

DBE Participation _____ %

DVBE Participation _____ %

DBE/DVBE Goals: DEVELOPERS NAME _____

DBE: 10 %

ADDRESS _____

DVBE 3 %

CONTACT PERSON _____

TELEPHONE () _____

CONTRACTOR'S NAME _____

CONTACT PERSON _____

TELEPHONE () _____

ADDRESS _____

DBE/DVBE Participation Attained::

CONTRACT AMOUNTS

NAME, ADDRESS, TELEPHONE NUMBER OF DBE/DVBE SUBCONTRACTORS	DBE ETHNIC CATEGORY	DBE Woman (X if yes)	DVBE	DESCRIPTION OF WORK OR SERVICES TO BE PROVIDED	DBE	Woman	DVBE
					\$	\$	\$

 DEVELOPER'S SIGNATURE
 print name & sign

 DATE

TOTAL \$ _____ \$ _____

\$ _____

CALIFORNIA HOUSING FINANCE AGENCY
DBE/DVBE Professional Summary
(Multifamily/Single Family Program)

NOTE: Dollar amount of professional participation will be counted toward the goals

COMMITMENT/PROJECT # _____

DBE/DVBE Goals: DEVELOPER'S NAME _____

DEVELOPMENT NAME _____

DBE 10 %

ADDRESS _____

ADDRESS _____

DVBE 3 %

CONTACT PERSON _____

COUNTY OF _____

TELEPHONE () _____

CONSTRUCTION
LENDER'S NAME _____

CONTRACTOR'S NAME _____

ADDRESS _____

CONTACT PERSON _____

TELEPHONE () _____

CONTACT PERSON _____

ADDRESS _____

CONSTRUCTION AMOUNT _____

DBE/DVBE Participation Attained:

DBE Participation _____ %

DVBE Participation _____ %

CONTRACT AMOUNTS

NAME, ADDRESS, TELEPHONE NUMBER OF DBE/DVBE SUBCONTRACTORS	DBE ETHNIC CATEGORY	DBE Woman (X if yes)	DVBE	DESCRIPTION OF WORK OR SERVICES TO BE PROVIDED	DBE	Woman	DVBE
					\$	\$	\$

DEVELOPER'S SIGNATURE
print name & sign

DATE

TOTAL \$ _____ \$ _____

\$ _____

CALIFORNIA HOUSING FINANCE AGENCY
Small Business Development
DBE/DVBE Self Certification

The following Self Certification is submitted with the intent of qualifying for CHFA's Small Business Program. With this intent I DO HEREBY CERTIFY that I am the Owner or Principal Owner of the company name herein and that the following is true and correct to the best of my knowledge.

NOTE: Please type or Print the following information

1. COMPANY NAME _____ TEL () _____

& ADDRESS _____

TYPE OF BUSINESS _____

2. TYPE OF OWNERSHIP: Place and "x" next to the appropriate category:

___ Sole Proprietorship ___ Partnership ___ Corporation

3. NAME OF THE OWNER(S) WHO CONTROLS 51% OR MORE OF THE COMPANY:

_____ (attach sheets if necessary)

Circle the qualifying individual(s) ethnicity/gender and/or status:

Black American Hispanic American Native American Asian Pacific-American Subcontinent-Asian
 American Woman Disabled Veteran Other: _____

4. DOES YOUR BUSINESS REQUIRE A STATE LICENSE: Yes or No
 if yes: State name of person on the license:

_____ (attach sheets if necessary)

Circle the qualifying individual(s) ethnicity/gender and/or status:

Black American Hispanic American Native American Asian Pacific-American Subcontinent-Asian
 American Woman Disabled Veteran Other: _____

5. NAME OF DAILY OPERATIONS MANAGER _____

I acknowledge that should any of the above information prove to be false, CHFA may **Bar me, or any company I may be associated with, from further eligibility to participate** in CHFA Programs for a period not to exceed five years. Further, CHFA may cause the publication of their findings to other Public Agencies and/or Private Corporations.

Signature _____ Date _____

 Print name and title

CALIFORNIA HOUSING FINANCE AGENCY
Multifamily Lending Manual
Equal Opportunity Policy Adoption Form

If Developer and Prime Contractor wish to adopt CHFA's Equal Opportunity Policy, verbatim, as their Affirmative Action Plan, this may be done by signing below and returning this form and one copy of this entire package to:

Chief
Small Business Development
California Housing Finance Agency
100 Corporate Pointe Suite 250
Culver City, CA 90230-7641

The attached California Housing Finance Agency Equal Opportunity Policy is hereby adopted as the Affirmative Action Plan for:

Development Name _____

CHFA # _____

Date

Signature, Developer's Authorized Representative

Print name and title

Date

Signature, Contractor's Authorized Representative

Print name and title